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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,769	07/23/2003	Brian G. Hoover	32365-1001	7825
7590	11/22/2006		EXAMINER	
Janeen Vilven-Doggett, Ph.D. Peacock Myers, P.C. P.O. Box 26927 Albuquerque, NM 87125			VARGOT, MATHIEU D	
			ART UNIT	PAPER NUMBER
			1732	

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,769

Applicant(s)

HOOVER, BRIAN G.

Examiner

Mathieu D. Vargot

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,8-10,15,16,34,42 and 45-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,8-10,15,16,34,42 and 45-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Kokai 3-57629 (see Abstracts) in view of Japanese Kokai 58-153,326. Japanese –629 discloses the basic claimed process of providing a polymer film or lens and reducing the transmission of at least a portion of the lens to at least certain wavelengths of light (ie, UV) by exposing the portion of the lens to a source of accelerated ions to form a buried (ie, implanted) opaque layer. Since the ion implantation is exactly as set forth in the instant claims and specification, it is submitted inherent in the process that the layer is buried to some extent and that it is opaque as set forth. Essentially, the primary reference lacks a teaching of using a mask. It is submitted that using a mask is nothing but conventional in this art as shown by Japanese –326, which implants ions into a polymer film to make a semiconductor. It would have been an obvious step in the process of the primary reference to expose the lens to the accelerated ions through a mask as taught by Japanese –326 to accurately form the desired implantation.

2.Claims 1-3 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumakura et al in view of Japanese Kokai 3-57629 and Japanese Kokai 58-153,326 essentially for reasons of record as set forth in the previous actions and paragraph 1, supra.

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3. Claims 45, 8-10, 15, 16, 34, 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumakura et al in view of Japanese Kokai 3-57629, Japanese Kokai 58-153,326 and Freeman et al essentially for reasons of record.

4. Claims 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poler (see col. 7, lines 3-15) in view of Kumakura et al.

Poler discloses that both intraocular and extra-ocular (ie, contact) lenses require some degree of permeability, such being achieved through radiation, the primary reference essentially failing to disclose that the holes would be etched and that they would be widened enough to allow for the ingrowth of corneal tissue. Clearly, in making an IOL, it would be advantageous to allow for corneal ingrowth so that the lens would be more securely anchored in place. Kumakura et al is applied essentially for reasons of record, teaching the etching of pores from tracks formed in a polymer film using a first source of radiation. It would have been obvious to have employed the etching of Kumakura et al in the process of the primary reference, with the etching being performed as instantly claimed to facilitate the fixation of the IOL.

5. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poler in view of Kumakura et al and Freeman et al, the references applied for reasons of record.

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

In view of the amendment and an update of the search, new art has been uncovered which renders the instant claims obvious for reasons noted supra.


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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
November 20, 2006


Mathieu D. Vargot
Primary Examiner
Art Unit 1732

11/20/06